

GENOCIDE AND HUMANITARIAN INTERVENTION

A PRELIMINARY RECONNAISSANCE

Frank Chalk

Department of History  
Concordia University  
and  
Montreal Institute for Genocide Studies  
1455 De Maisonneuve Blvd. West  
Montreal, Quebec  
Canada H3G 1M8

Bitnet: DrFrank@Vax2.Concordia.Ca  
Fax: (514) 848-3494/F.Chalk/LB-609  
Telephone: (514) 848-2404

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## Genocide and Humanitarian Intervention

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### I. Definitions and Concepts

The United Nations Convention on the Prevention and the Punishment of Genocide (1948) defines genocide as a crime under international law, whether committed in time of peace or in time of war, in which any of the following acts are committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such. The specified acts are: (1) killing members of the group; (2) causing serious bodily or mental harm to members of the group; (3) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; (4) imposing measures intended to prevent births within the group; and (5) forcibly transferring children of the group to another group.

In my own work with Kurt Jonassohn, we have modified the United Nations definition of genocide to assist us in classifying and comparing a wide array of cases from ancient times to the present. For the purpose of our research, genocide is a form of one-sided mass killing in which a state or other authority intends to destroy a group, as that group and membership in it are defined by the perpetrator. The last part of our definition permits us to include the intended annihilation of social and political groups in our sample of cases.

Helen Fein has recently proposed elements of a paradigm to detect genocide. She offers five propositions as specifying the necessary and sufficient conditions for a finding of genocide: (1) that there was a sustained attack or continuity of attacks by the perpetrator to

physically destroy group members; (2) that the perpetrator was a collective or organized actor or commander of organized actors; (3) that the victims were selected because they were members of a collectivity; (4) that the victims were defenceless or were killed regardless of whether they surrendered or resisted; and (5) that the destruction of group members was undertaken with intent to kill and murder was sanctioned by the perpetrator.

Genocides have occurred throughout history. Their perpetrators have generally acted on the basis of one or more of the following motives: (1) to eliminate a real or potential threat; (2) to spread terror among real or potential enemies; (3) to acquire economic wealth; and (4) to implement a belief, a theory, or an ideology. The first three motives for genocide are most frequently found among perpetrators engaged in building or defending an empire, while genocides to fulfil a belief, a theory, or an ideology have become much more common in the modern era and often make citizens of the perpetrating state their first victims.

The propensity of modern genocide to take the form of what was called "autogenocide" in the case of Cambodia has made the detection of genocides in their early stages especially difficult. Perpetrators often seek to conceal their aims and frequently act under the cover of wartime secrecy. But despite their best efforts, they are never completely successful in concealing their lethal activities from the outside world. In addition to denunciations of their activities by defectors and conscience-stricken perpetrators, at their outset most modern genocides have generated enormous numbers of refugees. It is precisely at this

stage--when thousands of human beings have demonstrated the seriousness of the threat to their survival by abandoning their homes and fleeing for their lives--that the efficacy of humanitarian intervention is greatest.

Foreign military interventions on humanitarian grounds are often controversial, but a broadly based consensus on the meaning of humanitarian intervention is reflected in the writings of Thomas M. Franck, Nigel S. Rodley, and Michael Bazzyler. For Franck and Rodley, humanitarian intervention is intervention which recognizes the right of one state to exercise an international control by military force over the acts of another in regard to its internal sovereignty when contrary to the laws of humanity. For Michael Bazzyler, "The international law doctrine of humanitarian intervention recognizes the right of one nation to use force against another nation for the purpose of protecting the inhabitants of that other nation from inhumane treatment by their governing sovereign."

No one should underestimate the barriers to a successful humanitarian intervention to stop a genocide or the increased opportunities for purely selfish international aggression which the widespread acceptance of humanitarian intervention could pose. There are solid arguments on both sides in the debate over the desirability of a new international order in which humanitarian interventions would be encouraged. Chief among the barriers to be overcome is the centuries old tradition of national sovereignty itself. The idea that states must live up to certain international standards in how they treat their nationals must battle with the much older notion that governments should reign



supreme within their own boundaries. And the idea that regional organizations, the Organization of African Unity to take one example, should fight against the inequalities and injustices existing within their members own borders must contend with the notion that such organizations must never interfere in the domestic affairs of their members.

Nor can we ignore geopolitical considerations as obstacles to humanitarian intervention. Influenced by the strategic considerations raised by the Cold War, the United States, <sup>for</sup> ~~to take one~~ example, accepted the slaughter of hundreds of thousands of alleged communists in Indonesia, a genocidal colonial repression of the people of East Timor, and the murder of hundreds of thousands of people in East Pakistan. In the case of East Pakistan, now Bangladesh, Henry Kissinger even led a drive to condemn India's successful military campaign to stop the mass killings of civilians by the army of Pakistan. Kissinger perceived India as an ally of the Soviet Union and viewed Pakistan as a key ally in his drive to reopen diplomatic relations with the Peoples Republic of China.

Paradoxically, the apparent end of the Cold War might create new problems in its place--first, neo-isolationism, which might lead the United States to abandon its interest in dozens of poor nations that are no longer of strategic importance, and second, a revival of hyper-nationalism and genocides among the peoples released from bondage by the fracturing of the Soviet Union and its client states.

## II. Principles and Institutions

In spite of these caveats, evidence is mounting that the climate of international public opinion is strongly shifting in favor of

establishing one or more collective security mechanisms whereby military force or the threat of such force could be employed in new humanitarian interventions. Despite the clear violations of international law in ~~its~~ <sup>the U.S.</sup> invasions of Grenada and Panama, these interventions were apparently popular among American voters and undoubtedly played a part in encouraging President George Bush to wage the war that expelled Iraq from Kuwait. An unintended consequence of Operation Desert Storm was the emergence of a growing resolve among the countries of western Europe that they would never again grant the United States a monopoly in the management of future interventions launched on humanitarian grounds. Operation Desert Storm also revealed that the leaders of the former Soviet Union were neither willing nor able to assist one of their former allies if it put their access to western loans and commodities at risk.

With the end of the Cold War, new opportunities have been created for international collaboration on humanitarian intervention to stop genocides once they have been detected or are deemed to be imminent. For the past two years, <sup>an unprecedented</sup> ~~a~~ regional military intervention force of troops from a number of West African states has been trying to end the genocidal Liberian civil war. The past few months have witnessed a widespread campaign in the North American media for the creation of an international military force to stop the killing and the potential genocides in Yugoslavia. Earlier in the year, impassioned calls were carried in the media for creation of an intervention force to separate the clans fighting in Somalia so that relief supplies could be distributed to its starving people, and other journalists have proposed

that a Pan-American military force should be created to liberate Haiti from its military dictators.

Before these efforts can bear fruit, the principles of intervention must be elaborated and the institutions that are capable of carrying out humanitarian interventions must be created or carved out of existing international bodies. Critics of humanitarian intervention are properly mindful of the fact that humanitarian excuses have often been used to justify unwarranted aggression and conquest. The great powers in the nineteenth century cited humanitarian concerns as the basis for their many interventions in the Ottoman Empire; the United States cited them when it ejected Spain from Cuba in 1898; Hitler justified his intervention in Czechoslovakia and Poland on humanitarian grounds; the Soviet Union used them as the basis for its recently concluded operations in Afghanistan.

How is the international community to separate the few sheep of legitimate humanitarianism from the herd of expansionist goats that history reveals. In an important article published in 1987, Michael J. Bazyler proposed five criteria for the application of humanitarian intervention: (1) large-scale atrocities must be occurring or be anticipated; (2) the intervening states must be seen to have overriding humanitarian motive; (3) the United Nations should be allowed to intervene first and, if it does not, collective intervention by a group of states should be attempted; (4) the aims of the intervention should be limited to ending the killing and, if required, removing the despot responsible for it; and (5) the intervening powers must exhaust other, peaceful remedies before intervening by force.

*Could also (6) intervene: should not be tried if they will kill more civilians than they can rescue from genocide]*



If principles such as these can be agreed upon by the Great Powers and a significant number of other states, what international body or bodies should carry them out? Hans Binnendijk underscores the importance of recognizing that there is a huge conceptual gap between traditional peacekeeping operations, which require the consent of all involved parties, and large peace-enforcement operations such as Desert Storm. A framework is needed, in his view, that closes the gap. Three existing organizations or treaty systems are frequently mentioned as possible vehicles for mounting humanitarian interventions: (1) the United Nations; (2) the Conference on Security and Cooperation; and (3) the North Atlantic Treaty Organization; each possesses its own advantages and disadvantages.

The founders of the United Nations always intended that there should be a Military Staff Committee, comprised of representatives of the five permanent members of the Security Council, to oversee peacekeeping activities. Prior to the outbreak of the Cold War, they agreed that there could be no collective security without collective force. But the UN also has its weaknesses. As the <sup>rank of the</sup> American economy ~~falls~~ <sup>shrinks</sup> to something closer to America's pre-World War II position, more and more wealth is generated by its former enemies, Germany and Japan. Neither country is represented on the Security Council, although both would have to make substantial financial contributions if the UN was to operate its own intervention force. Some members of the United Nations are actively hostile to vigorous human rights monitoring and use their positions on the Security Council and/or the UN's Committee on Non-Governmental Organizations to sabotage the scrutinizing work of human



rights organizations. In 1991, Cuba, Syria, Iraq, the Sudan, Libya and Algeria combined to block consultative status accreditation for America's largest human-rights monitoring organization, Human Rights Watch. The CSCE works on a "consensus-minus-one basis" that can render it inoperative as the sponsor of military interventions for humanitarian purposes. NATO is experienced in joint military planning, but it has no doctrine which covers humanitarian intervention.

### III. Conclusion

Capitalist states today are faced with a crisis in their ability to fulfil expectations of greater prosperity and in their ability to protect their citizens against the pressures of the international economy. Socialist states have confessed to economic failure and turned towards capitalism for solutions to their economic problems. In the former states of the communist bloc, movements for democratic change have increased expectations of democracy, human rights, equality and a better quality of life just as the ability of capitalist and socialist states to shape events has dramatically declined. The ability of <sup>not govt</sup> states to actually shape events seems to have declined dramatically and that decline has been accompanied by a renewed search for other forms of community, including those proposed by religious fundamentalists and hyper-nationalists.

At this crucial juncture in the history of man's inhumanity to man, the world needs a reliable, powerful, and collective mechanism to carry out humanitarian interventions to stop genocides and to defuse fighting that threatens to lead to genocide. There are enormous risks in undertaking such a venture, as I have tried to show. But our respect for

national sovereignty must not be absolute. Let us remember the statement of the Military Tribunal at Nuremberg which declared: "in the case of atrocities perpetrated by Nazi Germany against its own citizens, 'humanity is the sovereignty which has been offended . . . .'"